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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,212	06/07/2001	Lowell Martinson	3755P2332	6074

23123 7590 11/17/2008

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SUITE # 101
MESA, AZ 85201

EXAMINER	
SHAFER, RICKY D	

ART UNIT	PAPER NUMBER
2872	

MAIL DATE	DELIVERY MODE
11/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/875,212	MARTINSON, LOWELL	
	Examiner	Art Unit	
	Ricky D. Shafer	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 February 2004 and 28 June 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *22 and 23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *22 and 23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's arguments filed 02/03/2004 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the references to Mote and Lorenzo each clearly teaches it is well known to mount a mirror in such a manner that said mirror is in optical communication with an existing side view mirror of a vehicle in order to view typical blind spots lateral to a rear portion of a vehicle, which would obviously convey to one of ordinary skill in the art that the mirror of Araki ('163) can be similarly be arranged and/or positioned in such as manner to view blind spots lateral to a rear portion of a vehicle.

Furthermore, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference, nor is it that the claimed invention must be expressly suggested in anyone or all of the references, rather, the test is what the combined teaching of the references, as a whole, would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 U.S.P.Q. 871 (CCPA 1981).

Moreover, one cannot show nonobviousness by attacking the references individually, where the rejection is based on a combination of references. See In re Merck & Co., 800 F. 2d

1091, 231 U.S.P.Q. 375 (FED. CIR. 1986) and In re Keller, 642 F. 2d 413,208 U.S.P.Q. 871 (CCPA 1981).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Araki ('163) in view of Mote ('510) or Lorenzo ('141).

Araki discloses a mirror assembly comprising at least one substantially trapezoidal base portion (1) having a first side, adjacent element (1a), dimensioned to be adhered along a length thereof to a rear side portion of a vehicle and at least one mirror (3) coupled to a second side of said at least one substantially trapezoidal base portion, via element (2), in line of sight with an interior view mirror, note 1-5 along with the associated description thereof, except for the mirror device being adhered to a side rear side portion of the vehicle spaced from the rear of the vehicle and in a line of sight with an existing side view mirror to view objects lateral to the rear portion of the vehicle.

Mote and Lorenzo each teaches it is well known to attach at least one mirror to a side rear side portion of a vehicle spaced from the rear of the vehicle in a line of sight with a typical side view mirror in the same field of endeavor for the purpose of viewing objects lateral to the rear portion of the vehicle. Note Fig. 1 and Fig. 4 to Fig. 8, respectively.

Therefore, it would have been obvious and/or within the level of one of ordinary skill in the art at the time the invention was made to shift the location of the mirror assembly of Araki to a position adjacent the side rear side portion spaced from the rear of the vehicle such that said

mirror is in a line of sight with a typical, existing side view mirror as taught by Mote or Lorenzo in order to view objects lateral to the rear portion of the vehicle, since it has been held that rearranging parts of an invention involves only routine skill in the art. Note In re Japikse, 86 USPQ 70.

As to the limitations of claim 23, Lorenzo clearly teaches employing at least two lateral view mirrors, one of said two lateral view mirrors being positioned on the driver's side in combination with the driver's side view mirror and the other being positioned on the passenger's side in combination with the passenger's side view mirror in the same field of endeavor for the purpose of viewing objects to the right and left lateral sides of a vehicle. Note Figures 4 and 6.

Therefore, it would have been obvious and/or within the level of one of ordinary skill in the art at the time the invention was made to modify the vehicle of Araki to include two lateral view mirrors as taught by Lorenzo in order to view objects to the right and left lateral sides of the vehicle. Note ST. Regis Paper Co. v. Bemis Co., 193 USPQ 8.

Alternatively, it would have been obvious and/or within the level of one of ordinary skill in the art at the time the invention was made to substitute the mirror device, depicted by Fig. 2 or Fig. 3 in the mirror arrangement (Fig. 1) of Mote, or the mirror device, depicted by Fig. 3, Fig.5 or Fig. 7 in the mirror arrangement (Fig.4, Fig. 6 or Fig. 8) of Lorenzo, with a functionally equivalent mirror device of Araki in order to similarly view objects lateral to the rear portion of the vehicle with reduced damage to the vehicle body.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The examiner can normally be reached on Mon-Fri. 11:00 to 7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on (571) 272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDS

November 09, 2008

/Ricky D. Shafer/
Primary Examiner
Art Unit 2872